

ACTHA

PROFESSIONAL MANAGEMENT v. SELF-MANAGEMENT LEGAL IMPLICATIONS

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- A. LEGAL RISK v. COST SAVINGS

- B. LEGAL OBLIGATIONS OF DIRECTORS
 - 1. Fiduciary Duty
 - 2. Statutory Obligations
 - 3. Professional Qualifications
 - 4. Management Alternatives

- C. FIDUCIARY DUTY
 - 1. Duty of Loyalty
 - a. primary loyalty to the association
 - b. financial benefit to association
 - c. compensation only if authorized by Declaration and By-Laws

 - 2. Duty of Care
 - a. knowledge and maintenance of operating systems
 - b. adopt preventative maintenance program
 - c. compliance with City Codes
 - (i) exterior wall maintenance
 - (ii) fire safety

 - 3. Duty of Diligence
 - a. comply with Declaration and By-Laws
 - b. knowledge of Illinois Condominium Property Act
 - c. attend meetings
 - d. collect assessments
 - e. make decisions

D. MANAGEMENT ALTERNATIVES

1. Size of Association - Dictates Need For Professional Management
 - a. 2-25
 - b. 25-100
 - c. 100+
2. Amount of Association Funds
3. Directors Assume Full Obligations
 - a. financial
 - b. maintenance
 - c. legal
4. Directors Retain Selected Professionals
 - a. project management
 - b. accounting
 - c. legal
 - d. routine maintenance
5. Directors Retain Full Time Professional Manager

E. STATUTORY OBLIGATIONS

1. Illinois Condominium Property Act
 - a. adopt budget
 - b. maintain reserves
 - c. distribute annual accounting
 - d. maintain insurance
 - (i) hazard
 - (ii) property
 - (iii) directors and officers
 - (iv) fidelity insurance (Bond)
 - e. Levy Assessments
 - (i) including increases
 - (ii) issue - can board of self-managed association recommend and levy assessment increases?
 - f. Collect Assessments
 - (i) litigation against neighbors
 - g. Hold Open Meetings
2. Internal Revenue Code
 - a. file income tax return
3. Not-for-Profit Corporation Act
 - a. file annual report with Secretary of State

4. Other Obligations
 - a. response to Litigation
 - (i) owners
 - (ii) city/municipality

F. PROFESSIONAL QUALIFICATIONS

1. Standard for Directors - Self-Managed Association
 - a. perform at a level of professionally trained managers
 - b. continuing education - changes in laws, management and maintenance practices
 - c. professional certification
 - d. work experience
 - e. performing your own professional services
2. Manager Licensing
 - a. Current requirements for community association managers
 - (i) education
 - (ii) certification
 - (iii) financial security
 - (iv) fidelity insurance
3. Proposed Legislation
 - a. standards
 - (i) continuing education
 - (ii) testing
 - (iii) background investigation
 - (iv) fidelity insurance
 - b. exemption - self-managed associations
4. Management Scenario
 - a. Monday morning
 - b. winter
 - c. burst pipes
 - d. loud weekend party
 - e. electric bill overdue
 - f. insufficient association funds
 - g. delinquent unit owners
 - h. highest delinquency - next door neighbor